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SJC-13037

KELECHI LINARDON vs. BOSTON HOUSING AUTHORITY.¹

March 10, 2021.

Supreme Judicial Court, Superintendence of inferior courts.

The petitioner, Kelechi Linardon, appeals from a judgment of a single justice of this court denying her petition pursuant to G. L. c. 211, § 3. We affirm.

This is not the first time that the petitioner has sought relief from this court. In February of 2020, she filed a complaint in the county court seeking declaratory and injunctive relief and damages against the United States Department of Housing and Urban Development (HUD) and the Boston Housing Authority, which a single justice transferred to the Superior Court. See Linardon v. United States Dep't of Hous. & Urban Dev., 485 Mass. 1005, 1005 (2020). As detailed in that opinion, HUD thereafter removed the case to the United States District Court for the District of Massachusetts. That court dismissed the claims against HUD and remanded the matter to the Superior Court. See id. at 1005-1006. The Superior Court subsequently transferred the case to the Housing Court.²

¹ Although the United States Department of Housing and Urban Development was also named as a respondent, the claims against it in the underlying proceeding have been dismissed, and it is no longer a party in the case.

² In addition to the complaint that the petitioner filed in the county court in the earlier case, she also filed, in February 2020, a complaint directly in the Superior Court. That case was transferred to the Housing Court before both cases were

As best we can tell from the limited material before us, it appears that the petitioner contested the order transferring her case to the Housing Court and then appealed from that order. In connection with that appeal, which is currently pending in the Appeals Court, she sought a stay or an injunction, pursuant to Mass. R. A. P. 6 (a), as appearing in 454 Mass. 1601 (2009), seeking to restore her Federal housing benefits pending her appeal. A judge in the Superior Court denied the motion, as did, subsequently, a single justice of the Appeals Court. The petitioner then filed her G. L. c. 211, § 3, petition, in which she appears to be seeking the same relief.

In the petition, she asked a single justice of this court "to order the [respondent] to keep [her] approved federal . . . rental voucher [under the [Massachusetts rental voucher program (MRVP)] in an active status." She stated that the respondent has "purposely in retaliation kept [her] federal approved HUD MRVP rental voucher 'The Housing Choice Voucher Program' on inactive status since the month that [her] civil tort suit was filed against [the respondent] at [the] Superior Court." Noting that the relief that the petitioner sought in her G. L. c. 211, § 3, petition -- keeping her Federal rental voucher in "active status" -- already had been denied by both the trial court and the Appeals Court, the single justice of this court concluded that the matter did not warrant the exercise of this court's extraordinary power pursuant to G. L. c. 211, § 3, and denied the petition.

In her appeal to this court, the petitioner has refiled, in lieu of a brief, the exact same document that she had filed in the county court, i.e., the G. L. c. 211, § 3, petition. She makes no argument that the single justice erred or abused his discretion in denying her petition, nor does she make any effort to demonstrate the absence of alternative means by which to seek relief. See Lasher v. Leslie-Lasher, 474 Mass. 1003, 1004 (2016), citing Russell v. Nichols, 434 Mass. 1015, 1016 (2001) ("It is incumbent on a party seeking exercise of this court's extraordinary power of general superintendence under G. L. c. 211, § 3, to demonstrate the absence or inadequacy of alternative means of redress"). This alone is a reason to deny her appeal.

removed to the Federal District Court and thereafter remanded to the State courts.

Indeed, the petitioner does have an alternative means by which to seek relief, which she has already pursued, in the trial court, with a single justice of the Appeals Court, and before a panel of the Appeals Court. That she did not receive a stay or an injunction from the trial court or from the single justice of the Appeals Court does not entitle her as of right to have a single justice of this court consider the same pursuant to G. L. c. 211, § 3. Moreover, it appears from the Appeals Court docket that the petitioner has appealed to a panel of the Appeals Court from the single justice's order, as was her right. See Mass. R. A. P. 6 (a), 15 (c), 365 Mass. 859 (1974). See also Kordis v. Appeals Court, 434 Mass. 662, 664-665 (2001). The single justice of this court was well within his authority in declining to employ this court's extraordinary power of general superintendence in this situation.

Furthermore, the petition itself includes no record of any kind. It was the petitioner's burden "to create a record -- not merely to allege but to demonstrate, i.e., to provide copies of the lower court docket entries and any relevant pleadings, motions, orders, recordings, transcripts, or other parts of the lower court record necessary to substantiate [her] allegations -- showing both a substantial claim of violation of a substantive right and that the violation could not have been remedied in the normal course of a trial and appeal or by other available means." Gorod v. Tabachnick, 428 Mass. 1001, 1001, cert. denied sub nom. Davis v. Tabachnick, 525 U.S. 1003 (1998), and cases cited. Neither a single justice nor the full court is required to rely on the bare, unsupported allegations of a petition. Matthews v. D'Arcy, 425 Mass. 1021, 1022 (1997).

Judgment affirmed.

The case was submitted on briefs.
Kelechi Lindardon, pro se.